

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ROBERT WADE,

Petitioner,

v.

BERNARD F. BRADY, and
THOMAS F. REILLY,

Respondents.

Civil Action No. 04-12135-NG

**ASSENTED-TO MOTION TO EXTEND TIME
TO RESPOND TO PETITION FOR WRIT OF HABEAS CORPUS**

The respondents, by and through counsel, the Office of the Attorney General for the Commonwealth of Massachusetts, hereby request that the Court extend the time within which they must respond to the Petition for a Writ of Habeas Corpus that is the subject of the captioned action. Pursuant to this Court's October 19, 2004 Order, the respondents' answer or other responsive pleading presently is due on November 15, 2004. By this motion, the respondents request an extension to and including December 30, 2004. Counsel for the petitioner has assented to the extension. As grounds for this motion, the respondents state as follows:

1. The records relating to the petitioner's underlying state-court convictions are maintained by the Office of the District Attorney for Plymouth County (the "Plymouth DA").
2. Upon receipt of this Court's Order, the undersigned assistant attorney general promptly caused a request to be made to the Plymouth DA for assembly and production of relevant portions of the underlying state-court record, including, but not limited to, copies of the trial transcripts and post-conviction proceedings. The undersigned counsel has not yet received the state-court records.

3. Without the relevant records, the respondents cannot meaningfully evaluate threshold defenses under the Antiterrorism and Effective Death Penalty Act (“AEDPA”), such as whether the petitioner properly exhausted available state-court remedies as required by 28 U.S.C. § 2254(b)(1) and whether the petition is timely filed in accordance with 28 U.S.C. § 2244(d).

4. The extension sought herein will enable the respondents to compile and evaluate all of the relevant records, and, thereby, be in a position to meaningfully respond to the petition.

WHEREFORE, the present motion should be allowed and an order should enter allowing the respondents up to and including December 30, 2004 to answer or otherwise respond to the petition.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

Dated: November 15, 2004

/s/ Natalie S. Monroe
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Certificate of Compliance with Local Rule 7.1(A)(2)

I, Natalie S. Monroe, hereby certify that I conferred with the petitioner’s counsel, Janet H. Pumphrey, Esq., by telephone on November 4, 2004. Counsel for the petitioner assented to the requested extension.

/s/ Natalie S. Monroe
Natalie S. Monroe